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February 24, 2017

Via email only: balkany@aol.com

Ms. Caron Balkany, Esq.
PO Box 420859
Summerland Key, FL 33042

Re: *Laudicina v. FKAA*, DEP OGC Case No. 16-1375; BMO File No. 25047-024

Dear Caron:

We represent the Florida Keys Aqueduct Authority (FKAA) in the referenced matter. As you know, in the interest of protecting and preserving the natural environment of the Florida Keys, FKAA is responsible for constructing and operating the Cudjoe Regional Wastewater Treatment Plant, including underground injection wells (the "Plant"). We believe that you and others in the community are committed to this goal.

Every important environmental project hits periods of conflict among various stakeholders. The Plant project has had its share, which culminated in a settlement agreement in October 2015, to which you and your clients were party. Since then, FKAA has proceeded with construction of the deep injection well for the Plant. The Plant has been operating for more than year, in compliance with the settlement, and FKAA plans to begin using the deep injection well by May.

We are writing this letter in a good faith attempt to clarify any misunderstandings and to address any misgivings that might threaten to delay the advent of these beneficial new environmental protections.

For context, please recall a bit of project history. The State of Florida, Department of Environmental Protection ("DEP"), issued Permit No. FLA671932-001 and UIC Permit Nos. 295404-001, -002, -003, and -004 (collectively, "2009 Permits") for construction and operation of

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the Plant, which authorized use of shallow injection wells. In 2014, DEP issued a notice of intent to issue Permit No. FLA671932-003-DWIP and UIC Permit Nos. 295404-020, -021, -022, and -023 (collectively, "2014 Permits"). Your clients, Mike Laudicina and Don DeMaria, along with others represented by other counsel, challenged the 2009 Permits and DEP's intent to issue the 2014 Permits. Those challenges were assigned DEP Case No. 14-0418 and DOAH Case No. 15-1233.

A DOAH Order dated October 6, 2015, confirmed that the 2009 Permits authorized operation of the Plant, not just construction. To avoid the delay and uncertainty of lengthy litigation over the 2014 Permits and to resolve the remaining issues amicably, FKAA and your clients entered into the October 2015 settlement agreement, to which DEP and Monroe County were also parties ("Settlement Agreement"). The settlement led to a DEP Order dated October 13, 2015, approving and incorporating the Settlement Agreement, dismissing the challenge to the 2009 Permits and confirming them as final agency action, and otherwise abating the challenge.

As detailed in the Settlement Agreement, a major component of the parties' vision was that the Plant would dispose of effluent with a deep injection well rather than shallow injection wells as originally permitted. Toward that end, DEP issued Permit No. 336267-001-UC/5W7 for construction and operational testing of the deep injection well ("2015 Permit"). As promised, FKAA proceeded to construct the deep injection well, which is nearly ready for operational testing.

FKAA will conduct the operational testing as the Plant receives, treats, and disposes of wastewater in accordance with the 2009 Permits and the 2015 Permit and the Settlement Agreement. FKAA is on the verge of this important project phase, but understands the need to address concerns raised recently by you and your clients.

Specifically, in September 2016 DEP issued an Intent to Issue Permit Revision, which would revise the 2009 Permits. On behalf of Mike Laudicina and Don DeMaria, you have filed another administrative challenge to this intended agency action. Through extensive recent conversations, we understand that your concern is the intended revision may give rise to doubts later about the interpretation and application of the Settlement Agreement. Our conversations have confirmed that all parties intend to honor fully the Settlement Agreement and continue to share the goal of preserving and protecting the environment through the advanced wastewater treatment program that the Plant will make possible.

In this context, we are writing to express and reconfirm FKAA's commitment to the Settlement Agreement. There should be no doubt that **the deep injection well will be the sole primary injection well at the Plant and will serve as the sole primary method of effluent disposal.** That has always been the purpose of the deep well. Further, FKAA intends to use the shallow injection wells as backup wells for the Plant, which it will operate in accordance with

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all applicable laws. FKAA's plan is authorized by and consistent with the 2009 Permits and the 2015 Permit and the Settlement Agreement.

The September 2016 intended agency action was not necessary to begin operation of the Plant with the deep well. **Accordingly, FKAA has withdrawn the application for permit revision that led to the September 2016 intended action.** This should obviate any concerns you or your clients have with regard to the permit terms, which will remain the same as they were when the October 2015 settlement was signed. Once the deep well is in operation, FKAA expects that everyone will cooperate in jointly requesting DEP to dismiss the remainder of DEP Case No. 14-0418 in accordance with paragraph 16 of the Settlement Agreement.

Going forward, when FKAA has completed operational testing of the deep injection well to DEP's satisfaction and in accordance with the 2015 Permit, FKAA will apply to DEP for new operational permits for the Plant, including the deep injection well. We expect that those new permits will replace the 2009 Permits and the 2015 Permit, and that they will be consistent with the terms of the Settlement Agreement.

We trust that this letter provides adequate assurances concerning FKAA's unwavering intent to abide by the terms of the Settlement Agreement and the 2009 and 2015 Permits. With the September 2016 intended agency action now mooted, we ask that you please withdraw your amended petition and your request to revive DOAH Case No. 15-1233, neither of which would serve any useful purpose at this point. We thank you in advance for your cooperation.

Best regards,



Frederick J. Springer

cc: Chadwick R. Stevens